

IN THE UNITED STATES DISTRICT COURT
FOR THE MIDDLE DISTRICT OF TENNESSEE
NASHVILLE DIVISION

PHILIP R. WORKMAN,

Plaintiff,

v

DR. BRUCE LEVY, in his official capacities
as the Chief Medical Examiner for the
State of Tennessee and Medical
Examiner for the Metropolitan
Government of Nashville and
Davidson County, Tennessee; and

Ricky BELL, in his official capacity as
Warden, Reverend Maximum
Security Institution.

No.

3 01 0296

JUDGE CAMPBELL

CAPITAL CASE

EXECUTION DATE

1 A.M., MARCH 30, 2001

COMPLAINT

INTRODUCTION

1. On March 30, 2001, at 1:00 a.m., the State of Tennessee intends to kill Plaintiff Philip Workman by lethal injection. Thereafter, Defendant Dr. Bruce Levy intends to perform an autopsy on Mr. Workman's body. Because performing that autopsy would violate a sincere religious belief held by Mr. Workman, pursuant to 42 U.S.C. § 1983 this Court should enjoin Dr. Levy from performing it.

PARTIES

2. Plaintiff Philip Workman is a condemned inmate residing at Riverbend Maximum Security Institution, Nashville, Davidson County, Tennessee.

3. Defendant Dr. Bruce Levy is the Chief Medical Examiner for the State of Tennessee and for the Metropolitan Government of Nashville and Davidson County, Tennessee. Mr. Workman sues Dr. Levy in his official capacities.

4. Defendant Rick Bell is the Warden of Reverend Maximum Security Institution. Mr. Workman sues Warden Bell in his official capacity.

JURISDICTION/VENUE

5. In this action, Mr. Workman seeks injunctive relief pursuant to 42 U.S.C. § 1983.

6. Mr. Workman's 1983 claim arises from a federal statute. This Court therefore has jurisdiction over that claim pursuant to 28 U.S.C. § 1331.

7. Venue is proper in Tennessee's Middle District because the injury Mr. Workman seeks to prevent would occur in the Middle District. 28 U.S.C. § 1391.

EXHAUSTION OF ADMINISTRATIVE REMEDIES

8. Mr. Workman is unaware of any State administrative remedy for requesting that Dr. Levy not perform an autopsy on his body. Therefore, Plaintiff has satisfied the exhaustion requirements of 42 U.S.C. § 1997e(a).

FACTS

9. The State of Tennessee intends to execute Mr. Workman on March 30, 2001, at 1:00 a.m., by lethal injection.

10. After any execution of Mr. Workman, Warden Bell intends to give Mr. Workman's body to Dr. Levy who intends to perform thereafter an autopsy on Mr. Workman's body.

11. During the autopsy Dr. Levy will, among other things, cut open Mr. Workman's body, sever organs from the body, and dissect the severed organs.

12. Mr. Workman has a sincerely held religious belief that treating his body as discussed in paragraph 11 would be a mutilation of his body amounting to a desecration of a Temple of God. See 1/29/01 Declaration of Philip R. Workman, attached as Exhibit 1.

13. Since it will be the State itself that will kill Mr. Workman using a methodology that was developed and planned by a physician at the request of the State and the State will carry out the homicide as planned there will be no question concerning the cause of death.

14. According to a July 30, 1998, memorandum from Bob Bradford, who ironically is the Director of Health Services for the Tennessee Department of Corrections, he checked with DSNF Medical Director, Dr. Capobianco, who intern checked with an Anesthesiologist, Dr. Hyman, to confirm the drugs and dosages for lethal injection. Apparently, Dr. Capobianco, advised Mr. Bradford that Sodium Pentathol should be administered first, followed by Pavulon, and then Potassium Chloride. (Attached as Exhibit 2.)

15. A separate document obtained from the Department of Corrections advises as to the cost of each chemical as follows:

Pavulon	10ml vial	25/carton	\$400
Sodium Pentathol	1 gram vial	25/carton	\$200
Potassium Chloride	60ml vial	25/carton	\$30

(Attached as Exhibit 3.)

15. Yet another document procured from the Department of Corrections lists the amount of each drug to be used as: Sodium Pentathol --- 40 ccs; Pancuronium Promide (Pavilon) --- 40 ccs, Potassium Chloride --- 40 ccs. (Attached as Exhibit 4.) Yet another document lists the amount actually used as 50 ccs of each chemical. (Attached as Exhibit 5.)

16. Finally, the Department sets out a minute by minute schedule to commit the homicide which is carefully recorded. (See Attached Exhibit 6.)

17. Under the circumstances of this killing, which is fully planned by the State, with the assistance of medical doctors, and witnessed by numerous people, including members of the press, there is absolutely no reason to permit an autopsy over the religiously based objection of Mr. Workman.

CLAIM FOR RELIEF

42 U.S.C. § 1983/FIRST AMENDMENT TO THE UNITED STATES CONSTITUTION

18. Mr. Workman incorporates the preceding paragraphs.

19. Mr. Workman's sincerely held religious belief outweighs any interest Dr. Levy may have in performing an autopsy on his body.

20. Dr. Levy cannot prove that performing an autopsy on Mr. Workman's body is in furtherance of a compelling governmental interest and is the least restrictive means of furthering that interest.

WHEREFORE, Mr. Workman respectfully requests that this Court,

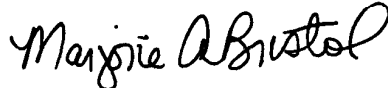
1. Enjoin Warden Bell from giving Mr. Workman's body to Dr. Levy;

2. Enjoin Dr. Levy from performing an autopsy on Mr. Workman's body;
3. Award costs and attorneys' fees pursuant to 42 U.S.C. § 1988; and
4. Order such other relief as this Court deems just.

Respectfully submitted,

A handwritten signature in black ink, appearing to read "Donald E. Dawson", followed by a horizontal line.

Donald E. Dawson
Post-Conviction Defender

A handwritten signature in black ink, appearing to read "Marjorie A. Bristol".

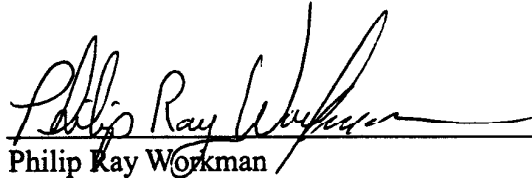
Marjorie A. Bristol
Assistant Post-Conviction Defender

Office of the Post-Conviction Defender
530 Church Street - Suite 600
Nashville, Tennessee 37243
(615) 741-9331

DECLARATION OF PHILIP RAY WORKMAN

Declarant Philip Ray Workman states as follows:

1. I am an adult resident citizen of Nashville, Davidson County, Tennessee.
2. I have a sincerely held religious belief that "the body is the temple of the Holy Spirit." I Corinthians 6:19. As stated in I Corinthians 3:16-17, "Do you now know that you are God's temple and that God's spirit dwells in you? If anyone destroys God's temple, God will destroy that person. For God's temple is holy, and you are that temple."
3. Based on the above passages, I have a sincere religious belief that my body is the temple of God. If an autopsy were performed on my body, I believe it would amount to a desecration of God's temple in violation of my religious belief.
4. I declare under penalty of perjury under the laws of the United States of America that the foregoing is true and correct.


Philip Ray Workman

01-29-01
Date

Exhibit 1



STATE OF TENNESSEE
DEPARTMENT OF CORRECTION
4TH FLOOR RACHEL JACKSON BLDG.
320 SIXTH AVENUE NORTH
NASHVILLE, TENNESSEE 37243-0465

MEMORANDUM

TO: William Lloyd, EAA

FROM: Bob Bradford, Director
Health Services

DATE: July 30, 1998

SUBJECT: Lethal Injection Drugs

I checked with the DSNF Medical Director, Dr. Capobianco, and he reviewed the suggested drug regimen (attached) with Dr. Hyman, Anesthesiologist. He confirms that the drugs and dosages listed are correct for a lethal injection. He advised that the Sodium Pentathol should be administered first, then the Pavilon, and then the Potassium Chloride. The lines should be flushed with saline before each new drug is injected.

Please let me know if you need more information.

BB;jh/lethaldrug.wpd

Exh: 6: + 2

000457

MEMORANDUM

TO: William Lloyd, EAA
FROM: Bob Bradford, Director
Health Services
DATE: July 10, 1998
SUBJECT: Lethal Injection

The drugs included in the information that you sent me are apparently the drugs of choice for lethal injection and should be adequate for use in Tennessee as well. I do not know the quantities needed for lethal levels, but will research when I return from vacation.

The drugs are all available through our Central Pharmacy as follows:

<u>Drug</u>	<u>Unit</u>	<u>Qty</u>	<u>Price</u>
Pavulon	10ml vial	25/carton	\$400
Sodium Pentathol	1 gram vial	25/carton	\$200
Potassium Chloride	60ml vial	25/carton	\$30

The other supplies and fluids are common and available through our medical supply vendors. The Central Pharmacy advises that they need advance warning so that they can order the drugs in time and have them available when needed.

Exhibit 3

000456

LETHAL INJECTION DRUGS

1. List the names of the drugs used in Lethal Injection and specify the amounts of each to be injected.

- a. Sodium Pentathol --- Puts the subject to sleep
- b. Pancuronium Promide (Pavilon) --- Stops the breathing
- c. Potassium Chloride --- Stops the heart

2. Amounts of each drug to be used.

- a. Sodium Pentathol --- 40 ccs
- b. Pancuronium Promide (Pavilon) --- 40 ccs
- c. Potassium Chloride --- 40 ccs

3. Each drug is placed in (5) syringes containing 8ccs. There is a primary set and a back up set.

Comments: _____

Exhibit 4

000458

- 1. Sodium Pentothal - Yellow (50 cc)**
- 2. Saline - Black (50 cc)**
- 3. Pancuronium - Blue (50 cc)**
- 4. Pancuronium - Blue (50 cc)**
- 5. Saline - Black (50 cc)**
- 6. Potassium Chloride - Red (50 cc)**
- 7. Potassium Chloride - Red (50 cc)**

CHRONOLOGICAL EXECUTION REPORT

NAME OF INMATE: _____

	<u>Time</u>
1. Inmate entered execution room.	_____
2. Restraints in place on inmate.	_____
3. IV systems in place.	_____
4. Lethal injection chemicals injected.	_____
5. Examined by physician.	_____
6. Pronounced dead.	_____
7. Body removed.	_____
8. Body removed from institution.	_____

Date

Warden

DAY OF EXECUTION - EXECUTION RECORDER CHECKLIST

- ____ p.m. Report to designated area for final briefing
- ____ p.m. Extraction Team, along with IV Team, report to Admin. Lt.'s office. IV team sets up IV system. Final briefing.
- ____ p.m. Physician in place
- ____ p.m. Team leader in place
- ____ p.m. Check blinds and curtains
- ____ p.m. Check gurney and restraints
- ____ p.m. Positioned in Execution Chamber
- ____ a.m. Warden or designee checks to insure execution is to proceed.
- ____ a.m. Extraction Team enters and secures offender to gurney.
- ____ a.m. IV's set - check to insure tubing is out of reach of offender.
- ____ a.m. Warden asks offender for any last comments.
- ____ a.m. Advise on-duty Security supervisor to "Transport witnesses into place."
- ____ a.m. Advised by Security supervisor "Witnesses in place."
- ____ a.m. Warden checks with Command Center to proceed.
- ____ a.m. Warden orders blinds opened.
- ____ a.m. Closed circuit TV activated.

Step 1 Completed _____

Step 2 Completed _____

Step 3 Completed _____

Step 4 Completed _____

CHECKLIST - Continued

- ____ a.m. Warden orders Execution Team to proceed.
- ____ a.m. "Process completed."
- ____ a.m. Blinds closed and curtain closed.
- ____ a.m. Closed circuit TV deactivated.
- ____ a.m. Doctor pronounces death - exact time.
- ____ a.m. Inform Security Supervisor to remove witnesses.
- ____ a.m. Advise Commissioner or designee in Command Center that execution is completed and time of death.
- ____ a.m. IV Team removes IV tubing.
- ____ a.m. Physician departs.
- ____ a.m. Extraction Team removes restraints from deceased.
- ____ a.m. Ambulance attendant escorted to chamber to claim body. Pictures will be taken of body and execution chamber prior to removal of the body.

Offender's Comments, if any:
